



2004

Annual Report

DEPARTMENT OF LABOR & TRAINING

WORKERS' COMPENSATION
FRAUD & COMPLIANCE UNIT

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TABLE OF CONTENTS

SECTION	PAGE
INTRODUCTION	1
MESSAGE.....	2
OVERVIEW	4
COMPLIANCE HIGHLIGHTS	5
INSURANCE CARRIER PENALTIES	6
FIRST REPORT PENALTIES.....	7
INDEPENDENT CONTRACTORS	8
FRAUD HIGHLIGHTS.....	9
CONCLUSION.....	9

INTRODUCTION

The Workers' Compensation Fraud and Compliance Unit (the "Unit") is part of the Rhode Island Department of Labor and Training, Workers' Compensation Division. The Unit is responsible for conducting investigations of suspected violations related to the Workers' Compensation Act and allegations of workers' compensation fraud involving any participant in the workers' compensation system. Violators are subject to civil monetary penalties and potential criminal fines and sanctions. As required by statute, the Unit is submitting an annual report describing its activities and setting forth its findings, conclusions and recommendations.



Rhode Island Department of Labor and Training, Center General, Cranston, RI

**This Annual Report of the Unit covers the period
January 1, 2004 through December 31, 2004.**

Message of the Chief

The year 2004 concluded with statistics reflecting an increased number of employer investigations conducted by the Fraud and Compliance Unit and a higher dollar amount collected from employers for penalties for failure to maintain workers' compensation insurance.

Statistics on compliance issues involving carriers that fail to report policy information to the Department, as required by statute, and employers that are penalized for failure to file timely first reports, reflect the outcome of Unit initiatives undertaken during the year. The dollar amount collected in penalties from carriers increased consistent with a strengthened Unit program focusing on this issue. Reporting is key to the Department's function of providing carrier information to injured workers, attorneys, medical providers and the Workers' Compensation Court. Due to Department educational initiatives, the dollar amount collected from employers for failure to file first reports decreased as more employers filed reports prior to the assessment of a penalty.

Although the goal of the Unit is to have voluntary compliance with the mandatory workers' compensation law for all employers, there will always be those that violate the law by intent or through omission or unintentional error. A strong enforcement program is required to identify employers in violation, bring them into compliance, and continually educate on the requirements of the law.

Unit staff looks forward to 2005 as noncompliant employers are targeted and penalized, as appropriate, and the message continues to be sent that compliance is mandatory, violators are punished, and fraud is not tolerated.

Respectfully submitted,

Julie Tamuleviz, Esq.
Chief
Workers' Compensation Fraud
and Compliance Unit

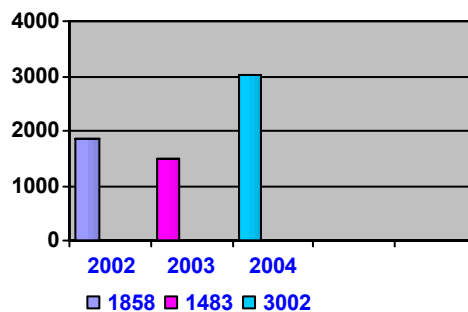
OVERVIEW

The Unit's work is divided into two major components: fraud and compliance. The Unit's compliance work is further divided into five major areas: uninsured employers, first report penalties, insurance carrier reporting penalties, workers' compensation waivers, and independent contractors.

The Unit's fraud component involves investigations into allegations of suspected workers' compensation fraud by any participant in the workers' compensation system. Cases in which fraudulent activity is substantiated are forwarded to the Department of the Attorney General for prosecution. The number of fraud cases referred to the Department of the Attorney General increased to twelve in 2004 from nine in the preceding year.

In 2004 3,002 complaints/referrals and allegations were initiated or received, a marked increase from last year. The increase is primarily due to proactive employer compliance programs initiated by the Unit.

COMPLAINTS / REFERRALS / ALLEGATIONS

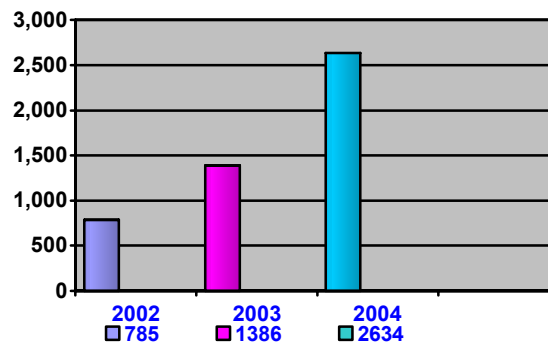


Compliance Highlights

Employer Lack of Workers' Compensation Insurance Cases

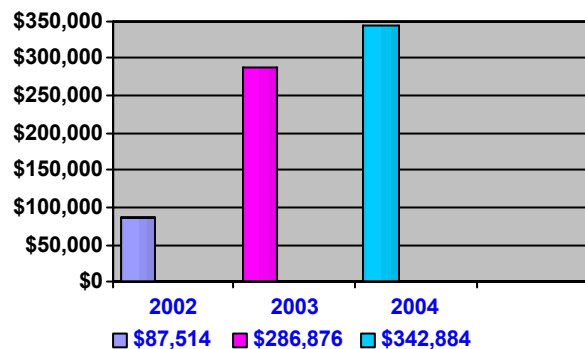
In 2004, Unit investigators checked 2,634 employers for workers' compensation insurance.

EMPLOYER / WORKERS' COMPENSATION INSURANCE INVESTIGATIONS



Employers found in violation were penalized. Penalties collected from employers in 2004 totaled \$342,884, a substantial increase from last year (see chart below). This figure is the actual amount collected. Some employers pay the penalty through installments and other penalties are presently subject to appeal and enforcement proceedings before the Workers' Compensation Court.

PENALTIES COLLECTED



Two "industry sweeps" were conducted in 2004. Using a cross match of tax records, workers' compensation insurance records, and a specific industry code, the Department is able to obtain a computer listing of employers with one or more employees who are not listed as having workers' compensation insurance. In 2004, auto repair shops and landscapers were checked. Sweep statistics for landscapers reflected 6.9 percent in noncompliance and 3.1 percent noncompliance for auto repair shops. Penalties were assessed in these cases.

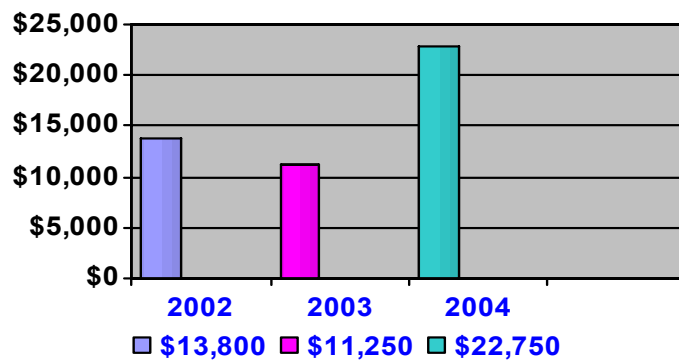
The Unit's cancelled policy program became a key enforcement program in 2004. All policies reported to the Department as cancelled are reviewed to determine the basis for the cancellation. If an acceptable basis cannot be initially determined (e.g. new carrier, termination of business, no current employees), an investigation is pursued. This program enables the Unit to identify employers in potential noncompliance quickly, before there is an extended lapse in coverage and ideally, before an injury may occur.

Insurance Carrier Penalties

Insurers that fail to report workers' compensation insurance policy information to the Department, as required by law, are subject to a penalty of \$250 per offense. Timely reporting is important for several reasons: The Department, as record keeper of workers' compensation policy information, needs the carrier information in order to provide it to injured employees, medical providers treating injured employees, attorneys and the Workers' Compensation Court. Although an employer may have workers' compensation insurance, if the carrier fails to report

this information to the Department, the employer is targeted as a potential violator and investigator time is expended unnecessarily. With decreased staffing, use of investigative time must be prioritized. To encourage proper reporting, the Unit increased its enforcement efforts resulting in a greater penalty collection for the year.

INSURANCE CARRIER PENALTIES



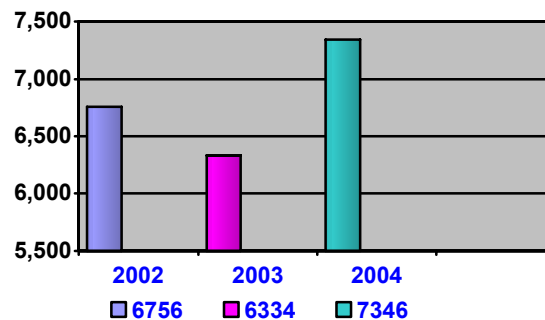
First Report Penalties

Employers that fail to timely submit first report of injury forms are subject to a penalty of \$250 per offense. The number of first report penalties dropped in 2004, a positive outcome resulting from educational efforts by the Department directed at employers and their reporting obligations. More employers filed first reports without the need to proceed to assessing a penalty. The penalty amount assessed in 2004 was \$5,000, down from \$8,000 in 2003.

Independent Contractors

The Department is the record keeper for all *Notice of Designation as Independent Contractor* registrations for purposes of workers' compensation. By law, independent contractors must file this form with the Department stating they are an independent contractor for a named hiring entity and are not eligible for workers' compensation benefits if injured while working for the named hiring entity. The Department's independent contractor database is an important source of information for workers' compensation insurers and hiring entities.

INDEPENDENT CONTRACTOR FILINGS



Although a mechanism exists for independent contractors to rescind the designation when a job is completed, there is no incentive to do so and forms are rarely rescinded. Consequently, the database may include outdated, non-relevant information. In 2005 the Department will consider solutions to this issue, including annual renewal of the form or a stated expiration date.

Fraud Highlights

Fraud referrals to the Unit declined from 97 in 2003 to 73 in 2004. After an initial investigative screening, 31 required the initiation of fraud investigations. The remaining allegations were either unfounded or referred to another agency for review. Unlike compliance cases, fraud cases are more dependent on "tips" from outside sources, including citizens, the fraud hotline and insurers. The number of referrals from insurers, the best source of information, declined from 19 to 13.

Twelve cases were referred to the Department of the Attorney General this year for prosecutorial review. Seven cases were criminally resolved, resulting in criminal sentencing of up to ten years suspended with probation, \$30,154 in restitution to insurers and \$7,013 to the Workers' Compensation Administrative Fund for the Unit's investigative costs.

Conclusion

The Unit will continue with a strong enforcement program in 2005.